IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No. 20150 of 2004

Date of Decision : 14.9.2006

Mukhtiar Singh ... Petitioner

Versus

State of Punjab and others. ... Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. W.R. Dua, Advocate,
for the petitioner.

Mr. Ashok Aggarwal, Addl. Advocate General, Punjab,
for the respondents.

J.S. Khehar, J. (Oral)

The grievance of the petitioner emerges from the order dated 30.11.2004 (Annexure P/1) whereby he has been retired from service with immediate effect. Although in the writ petition, it is averred that the petitioner produced a birth certificate at the time of his entry into service, duly attested by a 1st Class Magistrate, depicting that he was born in the year 1948. The impugned action seems to have been based on the original birth certificate of the petitioner, wherein the date of birth of the petitioner was reflected as 30.6.1938. It is, therefore, apparent that at the time when the impugned order was passed, the petitioner was approximately 66 years old as per the version of the respondents, although, as per his own version, the petitioner still had two more years of service before attaining the age of 60 years i.e. stipulated age of retirement on superannuation.

It is also apparent from the averments made in preliminary objection No.1, in the amended written statement filed on behalf of the respondents, that a criminal case is pending consideration against the petitioner in the Court of Chief Judicial Magistrate, Ropar, wherein the allegation levelled against the petitioner is, that he had produced a false birth certificate attested by a 1st Class Magistrate at the time of his entry into service.

On an examination of the totality of the circumstances depicted herein above, it is apparent that there is a serious dispute about the date of birth of the petitioner, while on the one hand, the petitioner has been claiming to have been born in 1948, according to the respondents, he was born in the year 1938. It is not possible for us to adjudicate upon a controversy, on disputed question of fact, under Article 226 of the Constitution of India. We, therefore, refrain from examining the merits of the claim raised in the instant writ petition. It is, however, open to the petitioner to seek redressal of his grievance by filing a civil suit or availing of some other alternative remedy of his choice, if he is so advised.

Disposed of accordingly.

(J.S. Khehar)
Judge

September 14, 2006
vkd

(S.D. Anand)
Judge